



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)	
)	
XXXXXXXXXXXXXX)	ISCR Case No. 21-02631
)	
Applicant for Security Clearance)	

Appearances

For Government: David F. Hayes, Esq., Department Counsel
For Applicant: *Pro se*

04/26/2023

Decision

KATAUSKAS, Philip J., Administrative Judge:

Applicant has not provided evidence sufficient to mitigate the national security concern arising from his problematic financial history. Applicant’s eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted his security clearance application (SCA) on June 17, 2021. On January 14, 2022, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) sent him a Statement of Reasons (SOR) alleging security concerns under Guideline F, financial considerations. The DCSA CAF acted under Executive Order (Exec. Or.) 10865, Safeguarding Classified Information within Industry (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, Defense Industrial Personnel Security Clearance Review Program (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4, National Security Adjudicative Guidelines (December 10, 2016).

Applicant submitted an answer (Answer) to the SOR on February 8, 2022 and elected a decision on the written record by an administrative judge of the Defense Office of Hearings and Appeals (DOHA). On September 29, 2022, Department Counsel submitted the Government's file of relevant material (FORM), including documents identified as Items 1 through 4. DOHA sent the FORM to Applicant on September 30, 2022, who received the FORM on October 11, 2022. He was afforded 30 days after receiving the FORM to file objections and submit material in refutation, extenuation, or mitigation. Applicant did not respond to the FORM. The SOR and the Answer (Items 1S and 1A, respectively) are the pleadings in the case. Items 2 through 4 are admitted without objection. The case was assigned to me on January 26, 2023.

Findings of Fact

After a thorough and careful review of the pleadings and exhibits submitted, I make the following findings of fact:

Applicant is 41 years old, married (December 2017), and has three sons, ages 21, 15, and 7. He is a high school graduate and completed one year of college. Since December 2018, he has worked for a defense contractor. (Item 2.)

The SOR alleged six delinquent debts totaling approximately \$25,000. (Item 1S.) Applicant admitted those allegations, without comments or explanations. (Item 1A.)

During his July 20, 2021 Personal Subject Interview (PSI), he was asked about the SOR debts. For each debt, he explained that he just "got behind." Similarly, for each debt, he intended to contact the creditor and set up a payment plan by late 2021. As of the PSI, however, he had not yet contacted his creditors. He attributed his financial difficulties to living and working in State A, that has a very high cost-of-living. To reduce his expenses, after living in State A since 2001, in June 2019 he moved to State B, which he believed would reduce his living expenses. (Items 2 and 3.) He submitted no documents evidencing any contacts with his creditors or payment plans.

Applicant has 14 accounts that are reported PAYS AS AGREED. The six SOR debts were assigned to collections between 2013 and 2016, and they remain in collections today. (Item 4.)

Law and Policies

It is well established that no one has a right to a security clearance. As the Supreme Court held, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

When evaluating an applicant's suitability for a security clearance, an administrative judge must consider the adjudicative guidelines. These guidelines are flexible rules of law that apply together with common sense and the general factors of the

whole-person concept. An administrative judge must consider all available and reliable information about the person, past and present, favorable and unfavorable, in making a decision. The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.”

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, then the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion in seeking a favorable security decision.

Guideline F, Financial Considerations

The security concern relating to Guideline F for financial considerations is set out in AG ¶ 18:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Guideline F notes conditions that could raise security concerns under AG ¶ 19. The following condition is applicable in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

The SOR debts are established by Applicant's admissions and the Government's credit report. Although the record has only one credit report (July 2021), the six SOR debts were assigned to collections between 2013 and 2016, and they remain in

collections today. Notwithstanding Applicant's 14 accounts that are current, the record shows a history of not meeting financial obligations. AG ¶¶ 19(a) and 19(c) apply.

Guideline F also includes conditions that could mitigate security concerns arising from financial difficulties. The following mitigating conditions under AG ¶ 20 are potentially applicable:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

I have considered mitigating condition AG ¶ 20(a). The six SOR debts were assigned to collections between 2013 and 2016, which is quite some time ago. But they remain in collections today. They are recurring debts. Applicant's SOR debts are not mitigated by AG ¶ 20(a).

I have also considered mitigating condition AG ¶ 20(d). Applicant has expressed his intention to contact his SOR creditors and establish payment plans. He has not, however, shown any evidence of such contacts or payment plans. The Appeals Board has routinely held that it is reasonable to expect applicants to produce documentation supporting their efforts to resolve debts. See, e.g., ISCR Case No. 20-00615 at 2 (Jun. 7, 2021). Applicant has not satisfied that basic requirement. His debts are not mitigated by AG ¶ 20(d).

The Whole-Person Concept

The ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. AG ¶¶ 2(a) and (d)(1)-(9) (explaining the "whole-person" concept and factors). In my analysis above, I considered the potentially disqualifying and mitigating conditions and the whole-person concept in light of all the facts and circumstances surrounding this case.

Applicant leaves me with questions about his eligibility and suitability for a security clearance. For these reasons, I conclude that Applicant did not mitigate the security concerns arising under Guideline F, financial considerations.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F: AGAINST APPLICANT

Subparagraphs 1.a. – f.: Against Applicant

Conclusion

In light of all of the circumstances presented, it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

Philip J. Katauskas
Administrative Judge